

REMARKS

This communication is responsive to the Office Action mailed January 17, 2008.

Request for Initialed Copies of PTO-1449 Forms

Before addressing these substantive issues raised in the Office Action, it is noted that the Office Action did not include initialed copies of the PTO-1449 Forms filed with the IDSs of October 31, 2007 and February 27, 2008. Applicants respectfully request these initialed copies in the next communication from the Office.

Indefiniteness Rejection of Claim 34

Beginning with the indefiniteness rejection of claims 34 and 36-39 on page 6, applicants have amended claim 34 to correct the antecedent error.

Claims 34 and 36-39 are in Condition for Allowance

Independent claim 34 was rejected based on prior art, but rather was provisionally rejected as being unpatentable over claims 1, 7 and 11 of co-pending application 09/960,229 in view of Barclay and Brown. With this Amendment, applicants submit a Terminal Disclaimer. Accordingly, it is respectfully believed claims 34 and 36-39 are in condition for allowance.

Claims 1, 8, 9, 14-25 and 40 are in Condition for Allowance, where "configured to" language recites structural differences

The Office Action reports that claim 1 was rejected as being obvious over Barclay (U.S. 5,960,399) in view of Brown (U.S. 6,587,822).

In the Office Action on page 2, it appears that the language "configured to" and "adapted to" is not being interpreted as requiring the limitations recited thereafter. Applicants respectfully disagree. In essence, this rejection is appears to be stating that the language is a form of intended use and thus should not be given patentable weight. In most cases,

the recited language will be performed by software. Software does not constitute immaterial knowledge or intentions which a computing component mentally comprehends in order to carry out a function; rather, software is encoded, illustratively, as a complex electrical or magnetic structure defining measurable, physical structures, which alter the physical structure of a component onto which it is loaded, and only by that alteration of physical structure, enable the component to be configured to perform new functions. Claim elements recited in terms of a "component configured to" perform a given function therefore define a positively recited claim element based on a definite physical structure, and not merely an abstract capability or intended use.

It is submitted that the language used is consistent with court precedent. Structural limitations in a claim can be defined by how the parts are to be interconnected. In re Venezia, 189 USPQ 149, 151 (CCPA 1976). The Federal Circuit also found in another case that "the functional language tells us something about the structural requirement of the attachment." K-2 Corp. v. Salomon S.A., 52 USPQ2d 1001, 1005 (Fed. Cir. 1999). Thus, a proper claim construction takes into account all the limitations recited in the claims, including those that are introduced by functional language. In claim 1, the "configured to" and "adapted to" language define operation (ie., interconnection) of the client/server system. Therefore, applicants respectfully submit that the claim elements that are worded as components "configured to" perform some function describe functional inventive elements that carry patentable weight, such that the claims are non-obvious and patentable over the cited art.

For the record, applicants provide a summary of the reasons for allowance as stated in applicants' prior response. Briefly, Barclay is cited for disclosing a server/client system for processing speech data comprising a web server, a client

device and a recognition server, but it is acknowledged that Barclay does not disclose a second client device configured to record speech data and adapted to send speech data to the recognition server, wherein the second client device comprises a telephone and a voice browser. Brown is cited for disclosing such a device.

Applicant respectfully disagrees that the cited combination of Barclay and Brown teach the invention recited by claim 1 because Brown is being summarily held out as showing a voice browser and phone, but the complete context in which these devices are being used is being ignored. Clearly, from FIG. 2. of Brown the voice browser 110 is present in the IVR platform 102, but more importantly, the IVR platform 102 also includes a speech recognizer 122. It is this combined system, that is adapted to receive input from a user using a device 108, which can be a telephone in order to access and render websites from servers 106-1 through 106-N. Thus, Brown teaches that to serve audio devices like telephones one uses an IVR platform that includes a voice browser and a speech recognizer. This construction does not teach, and in fact teaches away from the language recited in claim 1, i.e. wherein the second client device includes a voice browser but "the second client device is adapted to send the input speech data to the recognition server remote from the second client device."

It is therefore submitted that the combination of teachings found in Barclay and Brown would not teach or suggest the invention as recited in claim 1, but rather a system having a speech recognizer 80 as found in Barclay to serve PCs having visual browsers, while audio devices such as telephones would be served by an IVR platform having both a voice browser and a speech recognizer, a system where not only two speech recognizers are present, but also where the voice browser and the second

speech recognizer are together. Clearly, the invention of claim 1 is not only patentably distinguishable, but in many respects superior by eliminating at least one speech recognizer.

In view of the foregoing, amended claim 1 is believed allowable. Dependent claims 8, 9 and 14-25 depend directly or indirectly from claim 1 and are believed separately patentable.

With this Amendment, applicants have also added claim 40, which recites features found allowable in independent claim 34. Accordingly, it is believed claim 40 is separately patentable.

Claims 26-30 and 41 are in Condition for Allowance

Claim 26 was also rejected based on the combination of Barclay and Brown. Claim 26 has features similar to claim 1; however, this claim also recites that a wide area network is present operatively connecting the recognition server, web server, first client device and second client device (which has a browser). Despite the foregoing concerning use of "configured to" and "adapted to" language, which applicants believe rest on sound precedent and logic, applicants have amended claim 26 to use language that may be considered more as a requirement. Thus, this language further clarifies that the second client device is clearly remote from the recognition server and the browser, but sends data to the same recognition server used by the first client device. For these reasons and the reasons provided above for claim 1, which are applicable to claim 26, claim 26 is believed allowable and dependent claims 27-30, are believed separately patentable, and thus, also allowable.

With this Amendment, applicants have also added claim 41, which recites features found allowable in independent claim 34. Accordingly, it is believed claim 40 is separately patentable.

The foregoing remarks are intended to assist the Office in examining the application and in the course of explanation may

employ shortened or more specific or variant descriptions of some of the claim language. Such descriptions are not intended to limit the scope of the claims; the actual claim language should be considered in each case. Furthermore, the remarks are not to be considered exhaustive of the facets of the invention which are rendered patentable, being only examples of certain advantageous features and differences, which applicant's attorney chooses to mention at this time. For the foregoing reasons, applicant reserves the right to submit additional evidence showing the distinction between applicant's invention to be unobvious in view of the prior art.

Furthermore, in commenting on the references and in order to facilitate a better understanding of the differences that are expressed in the claims, certain details of distinction between the same and the present invention have been mentioned, even though such differences do not appear in all of the claims. It is not intended by mentioning any such unclaimed distinctions to create any implied limitations in the claims.

In view of the foregoing, reconsideration of the application as amended is requested. Favorable action upon all pending claims is solicited.

Applicants hereby request an extension of time for consideration of this Amendment. An online charge authorization is provided for the extension of time fee.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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